

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	02/11/18
Planning Development Manager authorisation:	AN	5/11/18
Admin checks / despatch completed	AN	6/4/18

ER

Application: 18/01338/FUL **Town / Parish:** Great Bentley Parish Council

Applicant: Mr and Mrs Banner

Address: Land Adj Shirley Dene Aingers Green Road

Development: Proposed new dwelling.

1. Town / Parish Council

Great Bentley Parish Council The application was discussed by Great Bentley Parish Council on 6th September 2018.

At the point where the proposed property would be built the road is only 11 ft wide and it is thought that this is not wide enough for vehicles to safely enter and leave the property.
A bus route also runs along this road.

2. Consultation Responses

ECC Highways Dept The Highway Authority raises an objection to the above application for the following reasons:

As far as can be determined from the submitted plans the proposal fails to provide a reasonable degree of intervisibility between users of the access and those already within the highway which will constitute a danger to pedestrians and motorists contrary to highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative: The proposed off street parking facilities may dimensionally meet the current Parking Standards, however, the proposed 3.0m wide space would not provide sufficient space for doors to be opened sufficiently to enable full access to the car or adequate circulatory space around the parked cars. The minimum width should be 3.4m between structures.

**ECC Highways Dept
(Following the submission
of amended plans)** From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a

controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. Prior to the proposed access being brought into use, vehicular visibility splays as shown detailed and in accord with the amended plans shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter in perpetuity.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. The parking spaces / vehicular hardstandings shall each be constructed to minimum dimensions of 5.5m x 3.4m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

5. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

3. Planning History

95/00746/FUL	(Adjacent Shirleydene, Aingers Green Road, Great Bentley) Change of use from agricultural land to form part of residential curtilage	Approved	15.08.1995
95/00891/FUL	(Shirley Dean, Aingers Green Road, Great Bentley) Bedroom Extension and en-suite	Approved	26.09.1995

16/01402/OUT	Outline planning application for two new dwellings with all matters reserved.	Refused	25.10.2016
17/00309/OUT	Outline application for two new dwellings with all matters reserved.	Refused	26.04.2017

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

HG1 Housing Provision

HG9 Private Amenity Space

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

LP1 Housing Supply

LP3 Housing Density and Standards

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's

initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

5. Officer Appraisal

Site Description

The application site is located on the northern side of Aingers Green Road on the eastern edge of the settlement of Aingers Green. The site is currently laid to grass and is utilised as amenity land by the residents of Shirley Dene, with large areas of agricultural land to the north and east. To the west are residential properties leading into the Aingers Green settlement. The site falls outside of a recognised Settlement Development Boundary within both the Adopted Tendring Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft.

Proposal

This application seeks planning permission for the erection of a single detached dwelling.

History

Under planning reference 16/01402/OUT a proposal for two dwellings adjacent to the east of the site was refused outline planning permission. The reason for refusal related to the adverse impact upon the rural setting.

Under planning reference 17/00309/OUT, an identical proposal to 16/01402/OUT was refused on the grounds it fell outside of a recognised Settlement Development Boundary and the adverse impact upon the rural setting.

Under planning permission 18/00102/FUL, full details were approved following earlier outline permissions 16/00120/OUT and 16/01618/OUT for three and four dwellings respectively located to

the north of Shirley Dene. These dwellings were approved when the Council was unable to demonstrate a five year supply of housing land.

Assessment

1. Principle of Development

The site lies outside of the Settlement Development Boundary for Aingers Green as defined by the adopted Tendring District Local Plan (2007), whilst Aingers Green does not have a Settlement Development Boundary within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

- 5 year Housing Land Supply and Plan-led approach

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination on 27 June 2018 (Examination of the Strategic Section 1 Plan - Meeting the Need for New Homes (Plan chapter 4)). Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.

Therefore, having regard to the latest housing land supply figures and with the emerging Local Plan progressing well, officers consider that greater weight can be given to Section 3 (Plan-Making) of the NPPF. Under this section, paragraphs 15, 17 and 20 state that the planning system should be genuinely plan-led, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraphs 15, 17 and 20 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

There would be conflict with Saved Policy QL1 and Emerging Policy SPI1 in terms of the site's location beyond the settlement development boundary. However, while the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

In line with Paragraph 8 of the National Planning Policy Framework (2018), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. Each is assessed below.

Economic:

Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

Social:

The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

In respect of the social credentials of the site it is relevant that on land directly to the west of the site an appeal has been allowed for the construction of 5 dwellings (planning appeal reference APP/P1560/W/15/3015097 Carpenters Farm, St Marys Road). In that instance the planning inspector concluded that the site performed reasonably well in locational terms from a sustainable point of view. The inspector stated that;

"in view of the limited facilities, the majority of occupiers would tend to make trips by private vehicle and that the proposal would not be sustainable as a result. However, the larger settlement of Great Bentley is approximately 1 mile away and is connected by a bus service which also goes beyond to serve the larger towns of Colchester and Clacton-On-Sea in either direction. I observed that Great Bentley has a wide range of services and facilities, including a railway station. Furthermore it is connected to Aingers Green by a footpath for the whole distance between the two settlements which is relatively flat and therefore attractive to users'.

Given the site's proximity to the appeal site it is therefore concluded that the application site meets the social sustainability strand of sustainability.

Environmental:

The environmental role is about contributing to protecting and enhancing the natural and historic environment.

The proposed dwelling would front onto Aingers Green Road, which is itself a rural country lane. The site is located to the east of the main bulk of residential development within Aingers Green and comprises of a grassed area of land enclosed by roadside hedging. Whilst within planning reference 16/01402/OUT issues were raised with the impact of proposed development on the rural character of the area, it is acknowledged that this proposed dwelling is located further to the west, which is currently an extension to the curtilage of Shirley Dene, and will be viewed in line with the existing settlement to the west. Further the impacts to mature vegetation referenced previously will be heavily reduced as a result of the proposed scheme and therefore, on balance, the harm of one additional dwelling located in close proximity to existing built form is not considered excessively harmful enough to warrant a reason for refusal.

Recent Appeal Decisions:

There have been a number of appeal decisions that have demonstrated that an application site being located outside of a Settlement Development Boundary is not in itself sufficient justification to refuse an application for residential development, some of which are highlighted below.

Within planning reference APP/P1560/W/17/3187802 (Land north of 2 Martins Gate Cottage, Colchester Road, St Osyth) the inspector concluded "*that while there would be some conflict with Policy QL1 of the Local Plan, because the dwelling would be located outside St Osyth's settlement boundary, this site would be an appropriate location for a dwelling. I therefore find that there would be no unacceptable conflict with the Local Plan.*"

Within planning reference APP/P1560/W/17/3183189 (Site adj Malting House, Station Road, Thorpe-le-Soken) the inspector stated the following: "*that the appeal site is outside a settlement*

boundary is not a decisive factor in this appeal and the conflict with Policy QL1 carries only limited weight in the planning balance."

Further, within planning reference APP/P1560/W/17/3188055 (Land rear of The Laund, Heath Road, Bradfield) the inspector concluded the following: *"I find that the adverse impacts in this case, arising from the location of the appeal site outwith the development boundary for Bradfield, do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole."*

Conclusion:

Therefore, given the above, in this instance the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm. Notwithstanding the fact that the Council can demonstrate a 5 year housing land supply there is nothing substantive to suggest the Council's ability to manage growth through the plan-led approach would be undermined and limited weight should therefore be given to the policy conflict. The principle of residential development is therefore considered to be acceptable.

2. Design, Appearance and Layout

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling is to be detached, 1.5 storeys and sited to the east of Shirley Dene along Aingers Green Road. The dwelling will be accessed via an existing access point to the south of the site off Aingers Green Road. The siting of the dwelling will be in line with 'Shirley Dene' and other residential development to the west, and will therefore help to build upon the existing building line. Therefore there is no identifiable harm with the dwellings' proposed siting.

In terms of the design of the dwelling, it takes the form of a semi-rural appearance and is considered to be of good design. Key features are included to help break up the proposal, including front and rear dormers, a front canopy area and a brick plinth.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied shows that this is comfortably achievable for both the new dwelling and for the existing dwelling 'Shirley Dene'.

3. Impact to Residential Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Whilst the dwelling will be visible to the existing residential properties to the west, there is an approximate separation distance of 8m. This separation distance will ensure no loss of light or that the dwelling will appear imposing. In terms of overlooking there are concerns regarding the impacts from the first floor side elevation window serving a bedroom that will have direct views into the adjacent neighbouring garden area. However, had the decision been recommended for approval a condition could have been imposed to ensure this window was obscure glazed. The rear dormer window would only have oblique views to the neighbouring garden area, and only to the rear of the

garden area that is less likely to be regularly occupied, and is therefore considered to be acceptable.

4. Highways

Paragraph 109 of the National Planning Policy Framework (2018) states development should be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR1a of the Saved Local Plan states that proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic, and to the effects on the transport system.

Initially Essex County Council as the Highways Authority raised an objection to the proposal, stating the submitted plans failed to provide a reasonable degree of intervisibility between users of the access and those already within the highway, which would constitute a danger to pedestrians and motorists, which is contrary to highway safety. However, amended plans were submitted by the agent for the application to show a reasonable degree of inter-visibility at the entrance of the site and to increase the width of the parking area from 3m to 3.4m.

Following the submission of these amended plans, Essex Highways Authority have withdrawn their previous objection subject to conditions relating to the width of the proposed access point, the use of no unbound materials and the provision of vehicular visibility splays. A condition was also requested for the storage of bicycles; however the site is of a sufficient size to accommodate this so this condition would not be reasonable.

Other Considerations

Great Bentley Parish Council neither objects nor supports the application, however does observe that the road is only 11 ft wide, which is thought will not be wide enough for vehicles to safely enter and exit the property.

There have been no other letters of representation received.

6. Recommendation

Approval.

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers SD/AG/1 and SD/AG/2A.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 4 No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 5 Prior to the proposed access being brought into use, vehicular visibility splays as shown detailed and in accord with the amended plans shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter in perpetuity.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 7 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.